

### **R E M A R K S**

Careful review and examination of the subject application are noted and appreciated.

Please add new claims 90-93.

### **SUPPORT FOR CLAIM AMENDMENTS**

Support for the claim amendments may be found in the specification, for example, in paragraphs 0015, 0024, 0027, 0029, 0032, 0036, 0037, 0040 and FIGS. 1-3, as originally filed. Thus, no new matter has been added.

### **CLAIM REJECTIONS UNDER 35 U.S.C. §103**

The rejection of claims 1-12, 17-20, 22-43, 45-55, 61-64, 66-87 and 89 under 35 U.S.C. §103(a) as being unpatentable over Allen III '726 (hereafter Allen) in view of Beckers '974 has been obviated in part by appropriate amendment, is respectfully traversed in part, and should be withdrawn.

The rejection of claims 13-16, 21, 44, 57-60, 65 and 88 under 35 U.S.C. §103(a) as being unpatentable over Allen in view of Beckers and Yamamoto '059 has been obviated in part by appropriate amendment, is respectfully traversed in part, and should be withdrawn.

Allen concerns a patient-operated glucose monitor and diabetes management system (title). Beckers concerns a diabetes

management system and apparatus (title). Yamamoto concerns a method and apparatus for measuring body fluid constituents and storing and managing the test data and method of controlling and processing the test data (title).

In contrast, the present invention provides a networked health-monitoring system configured to collect and process patient health-related data. The system generally comprises at least one microprocessor device including a display and a memory, at least one central server connected to receive health-related data communicated to the microprocessor device, and at least one health care professional computer that may be remotely located from and in signal communication with the central server to receive health-related information based on the patient health-related data received from the microprocessor device. The system may be configured to (a) monitor at least one health condition and (b) enable one or more programs to be provided from the central server to the microprocessor device for the monitoring, the programs being executed by the microprocessor device. However, Allen and Beckers, alone or in combination, do not appear to mention all of the above claim limitations.

Claims 1, 45 and 89 are independently patentable over the cited references. Claim 1 provides (i) at least one microprocessor device, (ii) at least one central server and (iii) at least one health care professional computer, remotely located from and in

signal communication with the central server. Claims 45 and 89 provide similar language. The Office Action asserts that a monitor unit 10 of Allen and a computer 102 of Allen are similar to the claimed microprocessor device and the claimed central server. However, the Office Action does not appear to identify another device in either Allen or Beckers that is allegedly similar to the claimed health care professional computer. Therefore, *prima facie* obviousness has not been established.

The Office Action asserts that the items 100-106 in FIG. 4 of Allen are allegedly similar to the claimed health care professional computer. In contrast, the item 100 of Allen is the physician, a human being. One of ordinary skill in the art would not consider a human to be similar to a computer. Item 102 of Allen is the computer 102, which the Office Action has already alleged is the claimed central server. Items 104 and 106 of Allen are modems 104 and 106. One of ordinary skill in the art would not consider 1986 vintage modems to be similar to a computer. Item 105 of Allen is a communications channel. One of ordinary skill in the art would not consider a communication channel to be similar to a computer. Overall, Allen appears to be silent regarding a health care professional computer, remotely located from and in signal communication with the computer 102 of Allen. The only device in communication with the computer 102 of Allen appears to be the monitor unit 10 and a printer 110. However, one of ordinary skill

in the art would not consider the printer 110 to be similar to a computer. Beckers does not appear to cure the deficiency of Allen. Therefore, Allen and Beckers, alone or in combination, do not appear to render obvious (i) at least one microprocessor device, (ii) at least one central server and (iii) at least one health care professional computer, remotely located from and in signal communication with the central server, as presently claimed.

Claim 1 further provides that the system is configured to enable one or more programs to be provided from the central server to the microprocessor device for the monitoring, the programs being executed by the microprocessor device. Claims 45 and 89 provide similar language. The Office Action asserts (in the rejection of original claim 39) that the text in column 2 lines 21-38 of Beckers mentions program transfers from a master computer to a patient recorder. The Office Action further implies that the master computer and patient recorder of Beckers are allegedly similar to the claimed central server and the claimed microprocessor device. However, Beckers appears to be silent that the programs are for the monitoring of health conditions. Allen does not appear to cure the deficiency of Beckers. Therefore, Allen and Beckers, alone or in combination, do not appear to render obvious that the system is configured to enable one or more programs to be provided from the central server to the microprocessor device for the monitoring, the programs being executed by the microprocessor device, as presently

claimed. As such, the claimed invention is fully patentable over the cited references and the rejections should be withdrawn.

Claims 8 and 52 are independently patentable over the cited references. Claim 8 provides a data management unit configured to (i) facilitate collection of the patient health-related data from the health monitoring device and (ii) transfer the programs from the central server to the microprocessor device. Claim 52 provides similar language. The Office Action asserts that the text in column 1 lines 50-68 of Allen mentions a device similar to the claimed data management unit. In contrast, the cited text, and the rest of Allen appears to be silent regarding any such device.

In particular, the cited text of Allen reads:

An object of the present invention is to provide an apparatus for accurately recording blood glucose data and other relevant treatment values.

Another object of the invention is to provide an apparatus for processing patient glucose data values in terms of a physician-prescribed algorithm.

An additional object is the provision of apparatus for transferring a patient's blood glucose data values over a communications channel to a physician's base computer station.

A further object of the invention is to provide a simpler, more reliable blood glucose monitoring system.

According to the present invention, as embodied and broadly described herein, a monitor is provided comprising, in combination, a reflectance photometer for measuring blood glucose levels, a circuit coupled to the reflectance photometer for converting the output from the reflectance photometer to a glucose data signal, and monitor means coupled to the circuit for storing the glucose data signal.

Assuming, *arguendo*, that the apparatus above (monitor unit 10) and the physician's base computer station 120 as similar to the claimed microprocessor device and the claimed central server, as argued by the Office in the rejection of claim 1 (for which Applicant's representative does not necessarily agree), Allen still appears to be silent regarding any device between the monitor unit 10 and the computer 102 that both (i) facilitates collection of patient health-related data and (ii) transfers programs. Furthermore, FIG. 4 of Allen only shown the modem 104, the communications channel 105 and the modem 106 between the monitor unit 10 and the computer 102. However, none of the items 104, 105 and 106 of Allen appear to facilitate collection of patient health-related data from a health monitoring device or transferring programs. Beckers does not appear to cure the deficiency of Allen. Therefore, Allen and Beckers, alone or in combination, do not appear to render obvious a data management unit configured to (i) facilitate collection of the patient health-related data from the health monitoring device and (ii) transfer the programs from the central server to the microprocessor device, as presently claimed. As such, claims 8 and 52 are fully patentable over the cited references and the rejections should be withdrawn.

Claims 11 and 54 are independently patentable over the cited references. Claim 11 further provides at least one personal computer connected to the data management unit. Claim 54 provides

similar language. The Office Action asserts that the items 10, 100-106 and 114 in FIG. 4 of Allen allegedly mentions a personal computer connected to a data management unit. However, the arguments above for claim 1 has already established that none of the items 100-106 of Allen would be considered by one of ordinary skill in the art to be a computer. The arguments above for claim 8 have already established that Allen and Beckers do not mention anything similar to the claimed data management unit. The Office Action already asserts that the monitor unit 10 of Allen is similar to the claimed microprocessor device. Furthermore, the item 114 of Allen is the patient, another person. One of ordinary skill in the art would not consider a human to be similar to a computer. There are simply more claimed devices at the remote patient site than are illustrated by Allen. Beckers does not cure the deficiency of Allen. Therefore, Allen and Beckers, alone or in combination, do not appear to render obvious at least one personal computer connected to the data management unit, as presently claimed. As such, claims 11 and 54 are fully patentable over the cited references and the rejections should be withdrawn.

Claims 39 and 83 are independently patentable over the cited references. Claim 39 further provides that the system is configured to enable the programs to be provided from the central server to the microprocessor device in response to an input received at the microprocessor device. Claim 83 provides similar

language. In contrast, the Office Action appears to agree that Allen does not mention transferring programs from the computer 102 to the monitor unit 10. The Office Action further asserts that the text in column 2 lines 21-38 of Beckers mention transferring programs from a computer to a remote device. However, Beckers appears to be silent that the program transfers are in response to an input at the remote device. Allen does not appear to cure the deficiency of Beckers. Therefore, Allen and Beckers, alone or in combination, do not appear to render obvious that the system is configured to enable the programs to be provided from the central server to the microprocessor device in response to an input received at the microprocessor device, as presently claimed. As such, claims 39 and 83 are fully patentable over the cited references and the rejections should be withdrawn.

Claim 2-44 and 46-88 depend, either directly or indirectly, from claims 1 or 45, which are now believed to be allowable. As such, the dependent claims are fully patentable over the cited references and the rejections should be withdrawn.

New claims 90-93 depend, either directly or indirectly, from claims 1 or 45, which are now believed to be allowable. As such, the new claims are fully patentable over the cited references and should be allowed.



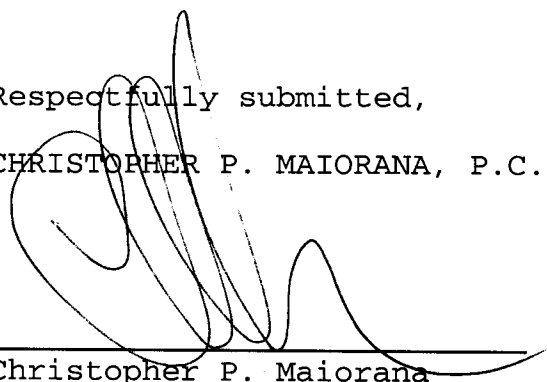
Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,

CHRISTOPHER P. MAIORANA, P.C.



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Christopher P. Maiorana  
Registration No. 42,829

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c/o Sandeep Jaggi  
Health Hero Network

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